

Appl. No. 10/074,602  
Amdt. dated January 29, 2004  
Reply to Office Action. of August 5, 2003

### **REMARKS/ARGUMENTS**

This amendment is filed in response to the Office Action mailed August 5, 2003. At that time, claims 1-21 and 23-27 were pending in the application. In the Office Action, the Examiner rejected claims 1-9, 11, and 13-21 as being unpatentable over U.S. Patent No. 6,164,383 issued to Thomas (hereinafter "Thomas") in view of by U.S. Patent No. 5,992,528 issued to Parkinson *et al.* (hereinafter "Parkinson") and in further view of U.S. Patent No. 3,972,373 issued to Nichols *et al.* (hereinafter "Nichols"). Claim 10 was rejected under §103(a) as being unpatentable over Thomas in view of Parkinson and Nichols, and in further view of U.S. Patent No 5,207,276 issued to Scofield (hereinafter "Scofield"). Claim 12 was rejected under §103(a) as being unpatentable over Thomas in view of Parkinson and Nichols and in further view of U.S. Patent No 5,660,236 issued to Sears *et al.* (hereinafter "Sears"). Claims 23-24 and 26-27 were rejected under §103(a) as being unpatentable over Thomas in view of Parkinson and Nichols, and in further view of Scofield. Finally, claim 25 was rejected under §103(a) as being unpatentable over Thomas in view of Parkinson, Nichols, Scofield, and in further view of Sears.

By this amendment, claims 1, 2, 13, 14, 17, and 23 have been amended. In view of these changes and the following remarks, claims 1-21 and 23-27 are presented for reconsideration by the Examiner.

### **MINOR CLAIM AMENDMENTS TO THE FORM OF THE CLAIMS**

In the Office Action, the Examiner recommended that the Applicants make claim 23 depend from claim 13 rather than the previously cancelled claim 22. The Applicants thank the Examiner for this helpful suggestion. As a result of this paper, the Applicants have amended claim 23 so that claim 23 now properly depends from independent claim 13. A similar error in the claim dependency of claim 17 has also been corrected.

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**REJECTION OF INDEPENDENT CLAIMS 1 AND 13 UNDER 35 U.S.C. §103(a)**

As noted above in greater detail, the Examiner rejected independent claims 1 and 13 as unpatentable under §103(a) in view of Thomas, Parkinson, and Nichols. See Office Action ¶ 4. The Applicants respectfully traverse this rejection.

It is well settled that in order to establish a *prima facie* case of obviousness, all of the limitations found in the Applicants' claims must be taught or suggested by the prior art references. See MPEP §2143.03. As a result of this paper, independent claims 1 and 13 include the limitation that the fire extinguishing system comprises a "a gas generant fire extinguisher ... comprising a housing that stores gas generant and fire suppressant....". As indicated by the Office Action, Thomas and Nichols do not teach or suggest such a limitation. Similarly, although Parkinson teaches a gas generant fire extinguisher 110 that includes a "housing 116," there is no teaching or disclosure in Parkinson that this housing 116 stores both the gas generant and the fire suppressant as required by claims 1 and 13. See e.g., Parkinson, Figure 2. On the contrary, Parkinson teaches that the fire extinguishing material 158 (which the Examiner asserts as the claimed "fire suppressant") is housed within "chamber 156" – a chamber that surrounds and is clearly positioned outside of the housing 116. See e.g., Parkinson, Figure 2; Col. 4, lines 60-65.

Therefore, because neither Thomas, Nichols, nor Parkinson disclose a system in which the gas generant fire extinguisher comprises a housing that stores gas generant and fire suppressant, this combination of references does not teach or suggest all of the limitations found in claims 1 and 13. Accordingly, such a combination of references cannot render these claims *prima facie* obvious under §103(a). Withdrawal of this rejection is respectfully requested.

**REJECTION OF DEPENDENT CLAIMS 2-12 AND 14-27**

As described in greater detail above, the Examiner rejected dependent claims 2-12 and 14-21, and 23-27 under 35 U.S.C. §103(a) as being unpatentable in view of the combined

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teachings of Thomas, Parkinson, Nichols, and (when necessary) Scofield and/or Sears. See Office Action ¶¶ 5-8. The Applicants respectfully traverse this rejection.

It is well settled that if an independent claim is patentable over the cited prior art, then all claims that depend from that independent claim are similarly patentable. See *In re Sernaker*, 217 USPQ 1, 3 (Fed. Cir. 1983); *Hartness International, Inc. v. Simplimatic Engineering Co.*, 2 USPQ2d 1826, 1831 (Fed. Cir. 1987). As described above, independent claims 1 and 13 are patentable over the cited references. Therefore, claims 2-12, 14-21, and 23-27, which depend from independent claims 1 and 13, are similarly patentable over the cited references. Withdrawal of these rejections is respectfully requested.

#### CONCLUSION

In view of the foregoing, the Applicants submit that claims 1-21 and 23-27 are in a condition for immediate allowance. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



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